

THOMAS AND NANCY WIEKER

IBLA 86-159

Decided May 30, 1986

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, dismissing a protest of a determination that certain simultaneous oil and gas lease applications were unacceptable. W-3112.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

BLM may properly declare simultaneous oil and gas lease applications unacceptable and return the filing fees and first year's rentals, minus a \$ 75 processing fee for each Part B application form, where the applicants failed to submit separate remittances, in payment of the filing fees and first year's rentals with each Part B application.

APPEARANCES: Roger Klurfeld, Esq., Washington, D.C., for appellants. 1/
OPINION BY ADMINISTRATIVE JUDGE HARRIS

Thomas and Nancy Wiekier have appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated October 24, 1985, denying a protest to BLM's September 26, 1985, notice informing the Wiekiers that their separate simultaneous oil and gas lease applications filed in the August 1985 simultaneous drawing were deemed unacceptable. The basis for BLM's determination was that a single check for \$ 22,564 accompanied their separate applications. BLM retained a \$ 150 processing fee and returned the balance of the remittance.

BLM properly declared the Wiekiers' applications unacceptable. The applicable regulation, 43 CFR 3112.2-2, provides:

Each Part B application form shall, when filed, be accompanied by a single remittance. The remittance shall consist of an amount sufficient to cover for each parcel included on the Part B application form a nonrefundable filing fee of \$ 75 and the

1/ On Mar. 25, 1986, the Board issued an order requiring Klurfeld to show cause why the appeal should not be dismissed because, in accordance with 43 CFR 1.4, he was not eligible to practice before the Department. On Apr. 23, 1986, Klurfeld filed a response and, without admitting a violation of 18 U.S.C. § 205 (1982), withdrew his appearance in the case.

first year's rental payment. Failure to submit either a separate remittance for each Part B application form or an amount sufficient to cover all the parcels on each Part B application form, or both, shall cause the entire filing to be deemed unacceptable.

The regulation clearly provides that each application must be submitted with a single remittance and that failure to do so will cause the entire filing to be deemed unacceptable. ^{2/} The Wickers submitted two applications accompanied by a single check. The filing of a single remittance with more than one simultaneous oil and gas lease application is clearly a violation of 43 CFR 3112.2-2, and the entire filing is deemed unacceptable. Eugen Georgescu, 91 IBLA 387 (1986).

Departmental regulation 43 CFR 3112.3(b) provides: "For each Part B application form deemed unacceptable, of the fees remitted, a \$ 75 processing fee shall be retained and the balance of the fees, if any, shall be returned." In accordance with that regulation BLM retained a processing fee of \$ 150 for the two applications and returned the remainder of the remittance. See Shaw Resources, Inc., 79 IBLA 153, 91 I.D. 122 (1984). It was proper for BLM to omit the applications from the drawing, and the Wickers are not entitled to a redrawing pursuant to 43 CFR 3112.4-2.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

R. W. Mullen
Administrative Judge.

^{2/} The regulations were changed in 1984 to incorporate this provision. 49 FR 26918 (June 29, 1984). The explanation for the change is included in the preamble of the proposed regulations (49 FR 9753 (Mar. 15, 1984)), and in the preamble to the final regulations. 49 FR 26919-20 (June 29, 1984). The change was made principally because in BLM's experience a mistake of a few dollars in the remittance submitted with a large group of applications had resulted in the disqualification of large numbers of applications.

